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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,647	05/09/2006	Robert Schipper	2069059US1	1801
21186 7590 01/09/2009 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER CHAI, LONGBIT				
ART UNIT 2431		PAPER NUMBER		
MAIL DATE 01/09/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,647

Applicant(s)

SCHIPPER ET AL.

Examiner

LONGBIT CHAI

Art Unit

2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Currently pending claims are 1 – 11.

Response to Arguments

2. Applicant's arguments with respect to the subject matter of the instant claims have been fully considered but are not persuasive.

3. As per claim 1, Applicant argues Kim does not teach "decryption of [encrypted content data] requires temporary changing control word (CW), in the data stream" because Kim neither teaches "control words in the data stream" nor does Kim teaches "control words are temporarily changed" (Remarks: Page 8, the last 2nd-Para). Examiner respectfully disagrees with the following rationale per each of the individual assertions:

- The complete claim limitation is recited as "including encrypted content data, the decryption of which [i.e., encrypted content data] requires temporary changing control word (CW), in the data stream". Examiner notes (a) the portion of "the decryption of which [i.e., encrypted content data] requires temporary changing control word (CW)" is the insertion phrase into the claim limitation of "including encrypted content data in the data stream" by using the "dual-comma" and thereby it is the "encrypted content data in the data stream" not the "temporary changing control word in the data stream" being recited in the claim, (b) Examiner also notes Kim does teach "temporary changing control word" since the claim language "temporarily changing", according to DICTIONARY.com, is interpreted as "not permanent or effective for a limited time only" and Kim teaches (1) transmits a RCM (received control message) containing a control word (CW) at the selected time period (Kim: Column 6 Line 13 – 16 and Column 4 Line 47: the CW is valid at least for a selected period

of time) and (2) the broadcaster (i.e. CAS) may assign a new encryption (in terms of the algorithm and the ciphering key) in accordance with a specific calculation method to scramble data (Kim: Column 1 Line 34 – 40) and as such Kim does teach “temporary changing control word (CW)” and (3) Kim does also teach “the control word in the data stream” because CW is embedded in the RCM (Kim: Column 4 Line 47) and thus RCM is indeed one type of data stream containing CW to meet the claim language.

4. As per claim 1, Applicant further asserts Kim does not teach content data that is substantially contemporaneous with the ECM (i.e. control word) for decrypting content data (Remarks: Page 7 / 2nd Para). Examiner respectfully disagrees with the following rationale:

- Examiner notes the claim language “substantially contemporaneous”, according to DICTIONARY.com, is interpreted as “a considerable amount of the present time” and Examiner notes, according to MPEP 2111, the broadest and reasonable claim interpretations must be made such that “the broadcaster (i.e. CAS) assigns a unique encryption to each receiver, inputs / downloads the unique encryption (i.e. the ciphering key CW) into a decryptor along with a particular encryption contained in a broadcast signal / program (i.e. content data) for allowing only permitted receivers to receive signals and programs, as taught by Kim (Column 1 Line 33 – 37 / Line 40 – 43), is sufficient to meet the claim language since “substantially contemporaneous”, as alleged by Applicant, is not recited in the claim in a way regarding what exactly constitutes the extent of considerable (or substantial) amount of the present time. Examiner respectfully notes Applicant’s argument has no merit since the alleged limitation has not been recited into the claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Accordingly, Applicant’s arguments are respectfully traversed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (6,584,199) in view of Albanese et al. (2005/0033964).

As per claims 1, 4, 7, 10 and 11, Kim discloses: -including encrypted content data, the decryption of which requires temporally changing control words (CW), in the data stream (Column 4, Lines 41-47) & **Examiner notes** Kim does teach "temporary changing control word" since the claim language "temporally changing", according to DICTIONARY.com, is interpreted as "not permanent or effective for a limited time only" and Kim teaches (1) transmits a RCM (received control message) containing a control word (CW) at the selected time period (Kim: Column 6 Line 13 – 16 and Column 4 Line 47: the CW is valid at least for a selected period of time) and (2) the broadcaster (i.e. CAS) may assign a new encryption (in terms of the algorithm and the ciphering key) in accordance with a specific calculation method to scramble data (Kim: Column 1 Line 34 – 40) and as such Kim does teach "temporary changing control word (CW)" and (3) Kim does also teach "the control word in the data stream" because CW is embedded in the RCM (Kim: Column 4 Line 47) and thus RCM is indeed one type of data stream containing CW to meet the claim language;

- including first decryption control messages (ECM's) in the data stream, each first decryption control message (ECM) containing at least one of the control words that is required for

decrypting content data that is substantially contemporaneous with the first decryption control message (ECM) in the stream (Column 4, Lines 45-67) & Examiner notes the claim language "substantially contemporaneous", according to DICTIONARY.com, is interpreted as "a considerable amount of the present time" and Examiner notes, according to MPEP 2111, the broadest and reasonable claim interpretations must be made such that "the broadcaster (i.e. CAS) assigns a unique encryption to each receiver, inputs / downloads the unique encryption (i.e. the ciphering key CW) into a decryptor along with a particular encryption contained in a broadcast signal / program (i.e. content data) for allowing only permitted receivers to receive signals and programs, as taught by Kim (Column 1 Line 33 – 37 / Line 40 – 43), is sufficient to meet the claim language since "substantially contemporaneous", as alleged by Applicant, is not recited in the claim in a way regarding what exactly constitutes the extent of considerable (or substantial) amount of the present time);

-including second decryption control messages (EMM's) which contain management information for entitling selected stream receiving devices to decrypt content data from the data stream using control words from the first decryption control messages (ECM's) (Column 4, Lines 55-60),

- extracting a control word from a first decryption message (ECM) from the stream in a stream receiving device (Column 4, Lines 55-60).

Kim does not explicitly teach: -including further management information in at least part of the first decryption messages (ECM's);

- together with said extracting, testing whether the first decryption message (ECM) contains further management information targeted at the stream receiving device,

- indefinitely disabling subsequent decryption of at least part of the stream in the stream receiving device upon said detection.

However, Albanese discloses: -including further management information in at least part of the first decryption messages (ECM's) (0022-0031);

- together with said extracting, testing whether the first decryption message (ECM) contains further management information targeted at the stream receiving device (0022- 0031,
- indefinitely disabling subsequent decryption of at least part of the stream in the stream receiving device upon said detection (0040-0041). Therefore it would have been obvious to one with ordinary skill in the art at the time the invention was made to use the teachings of Albanese in conjunction with the teachings of Kim for the benefit of secure transmission between first and second module (0011).

As per claim 2, 5 and 8, rejected as applied to claims 1,4 and 7. Furthermore, Albanese discloses: wherein the stream receiving device contains identification information that individually identifies the stream receiving device, said first decryption message (ECM) containing further identification information, said testing comprising comparing the identification information and the further identification information (0040- 0041).

As per claims, 3, 6 and 9, rejected as applied to claims 1,4 and 7. Furthermore, Albanese discloses: wherein the first encryption message (ECM) contains information that specifies a condition upon entitlement data, said testing comprising searching for entitlement data stored in said stream receiving device to detect whether any of the searched entitlement data meets said condition, and performing the disabling if such entitlement data is found (0020-0031).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LONGBIT CHAI whose telephone number is (571)272-3788. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Longbit Chai/

Longbit Chai E.E. Ph.D
Primary Examiner, Art Unit 2431
12/10/2008